



October 18, 2010

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

Re: Establishing Just and Reasonable Rates for Local Exchange
Carriers, WC Docket No. 07-135

Dear Ms. Dortch:

USTelecom has recently held *ex parte* meetings with various Commission staff to urge immediate action to stop the practice of traffic pumping.¹ This letter provides recent information responsive to questions raised by staff in the course of those meetings as to the size of the traffic pumping arbitrage problem.

Last week, TEOCO, an independent, third-party consulting firm, released the attached study on the industry-wide cost of traffic pumping. Based on studies using specialized traffic-monitoring technology, TEOCO estimates that “the total cost of Traffic Pumping to the industry is in excess of \$2.3Billion (USD) over the past five years.” USTelecom notes that this figure is in the upper range of the estimate recently filed with the Commission by Verizon which calculates the traffic pumping arbitrage problem as costing consumers between \$330-440 million annually.²

Please include this letter and attached study in the record of the proceeding identified above.

Sincerely,

Glenn Reynolds

¹ See *Ex parte* letters from Glenn Reynolds, USTelecom, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 07-135 (dated October 13, 2010).

² *Ex parte* letter from Donna Epps, Verizon, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket 07-135 (dated October 11, 2010).

Marlene H. Dortch

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ACCESS STIMULATION RESPONSIBLE FOR \$2.3 BILLION IN COST

TRAFFIC PUMPING QUANTIFIED BY TEOCO STUDY

Fairfax, VA – October 14, 2010 – TEOCO Corporation, the market leader in Cost Management, Routing Management, Revenue Assurance and Service Assurance solutions for communications service providers worldwide, today announced the release of its much anticipated study on the industry wide issue of Traffic Pumping, also known as Access Stimulation.

Over the past few years TEOCO has proven itself to be an expert on the emerging issue of Traffic Pumping, the act of routing excessive amounts of long distance traffic to rural carriers who charge higher rates for terminating traffic on their networks. TEOCO's technology was instrumental in first identification of the damages to a large US client which were crucial to the seminal court decision against traffic pumpers in Iowa.

Charles W. Steese, Partner, Steese•Evans•Frankel, P.C. commented, *"TEOCO has leveraged its products and expertise to provide visibility to the origins and costs attributable to Traffic Pumping and the communications industry, quantifying the need for action by the FCC."*

The study takes a deeper dive in to the effect Traffic Pumping has on the industry as a whole, including a cost in excess of **\$2.3 Billion** over the past 5 years.

"This study is the culmination of a tremendous amount of hard work and dedication over the past few years," said TEOCO Vice President and General Manager John Devolites. *"Traffic Pumping is a problem costing the industry Billions of dollars and we hope this study will help shed some more light on the issue."*

Please download the study at: <http://www.ccmi.com/TEOCO/TrafficPumpingHelp>

About TEOCO

TEOCO is the market leader in the delivery of Cost Management, Routing Management, Revenue Assurance and Service Assurance solutions for communications service providers worldwide. More than 70 of the world's largest operators trust TEOCO to deliver unparalleled visibility and control over their operations. Fueled by extensive industry expertise and innovative technologies, TEOCO saved its customers several hundred million dollars last year alone.

Founded in 1995, TEOCO (The Employee Owned Company) has been ranked one of the fastest growing companies by Inc. Magazine on four occasions. TEOCO is widely recognized for its commitment to principled entrepreneurship, business ethics and employee ownership with a particular emphasis on its core values of alignment with employees, clients and community. For more information visit www.teoco.com

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Traffic Pumping Bleeds CSPs of Billions

October 13, 2010



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Identification of the Problem

In mid-2006, TEOCO found that several rural Local Exchange Carriers (LECs) with historically low volumes were experiencing explosive growth in terminating minutes, sometimes by over 40,000%. Based on these findings, an investigation was initiated to determine root cause. The investigation found calls were associated with telephone numbers assigned to companies engaged in free conference, free pornographic chat and free international calling schemes. Collectively, the companies are referred to as Free Calling Service Companies (FCSCs). Communications Service Providers (CSPs) asked that the rural LECs explain their relationships with these companies, and the rural LECs refused. Further investigation of the FCSC websites revealed that several admitted they were splitting terminating switched access revenue with their rural LEC partners.

Traffic Pumping Mechanics

The mechanics of Traffic Pumping, also referred to as Access Stimulation, and the ability to establish and run a successful Traffic Pumping scheme is alarmingly easy. First, rural LECs enter into business relationships with FCSCs. Examples include:

- i. Free Conference
- ii. Free Pornographic Chat
- iii. Free International Calling
- iv. Free Pre-Recorded Calling
- v. Free International Radio

Rural LECs then assign blocks of telephone numbers to the FCSCs. FCSCs send conference bridges, routers or chat computers to the LECs, who place the equipment in their central offices. LECs then connect the equipment to their network using PRI connections. FCSCs advertise to make “free” calls to the assigned telephone numbers. “Free” of course depends on perspective; i.e., who’s paying the bill for the call.

TEOCO has seen cases where a subscriber calls one of these numbers and listens to music on their phone for 10 hours! If the subscriber who made the call has an unlimited plan for voice calling, their Communication Service Provider (CSP) gets stuck with the charges. The LECs bill CSPs for the minutes, and split the terminating switched access revenue with the FCSCs.

CSP Reaction

As a result of the findings, several complaints and lawsuits were brought forth primarily by Interexchange Carriers (IXCs) against the rural LECs in the states identified to be the most egregious offenders. Several surprising contractual economic relationships between the LECs and FCSCs were identified as part of the Discovery phase of these proceedings. Some examples of these economic relationships include situations whereby:

- i. FCSCs do not pay for the purported services from the local tariffs
- ii. FCSCs do not pay mandatory EUCL or PRI charges from access tariffs
- iii. FCSCs do not pay taxes (excise, sales, use, etc)*
- iv. FCSCs do not pay mandatory fees (such as universal service)
- v. FCSCs do not account for theoretical revenues from FCSCs
- vi. FCSCs are never billed
- vii. FCSCs are not in the LEC's billing system
- viii. FCSC lines are not counted in reports to NECA, the FCC and State commissions
- ix. FCSCs do not get E911
- x. FCSCs do not get white page listings
- xi. FCSCs collocate equipment in central offices free of charge
- xii. FCSCs do not pay for power in central offices
- xiii. Many of the calls do not even terminate in the LEC's exchange
- xiv. The arrangement between the LECs and FCSCs are kept confidential and not offered to others
- xv. The Deal between LECs and FCSCs: ensure calls are routed to my NPA-NXX and we will split the terminating revenues

* TEOCO has not estimated the loss of tax revenue to State, Local and Federal authorities

State and Federal Actions

Despite the fact that it was proven that in some cases LECs involved in traffic pumping submitted manufactured evidence to intentionally mislead the FCC and State commissions, and detract from identification of their Traffic Pumping schemes, conscious decisions have been made at the Federal level to delay making concise or industry impacting decisions. The FCC has not acted on a rulemaking it opened in 2007 to address Traffic Pumping. Furthermore, several Federal courts have referred issues from Traffic Pumping cases to the FCC for resolution. Instead of deciding these issues promptly, the FCC bifurcated the issues into liability and damages, and will only address issues of tariff interpretation at this juncture even though clear guidance was provided on that issue last year in the Qwest v. Farmers & Merchants decision. This leaves the question of what compensation, if any, the Traffic Pumping LECs are entitled to languishing. Those involved in Traffic Pumping take advantage of the delays, pumping more and more traffic.

Cost to Carriers

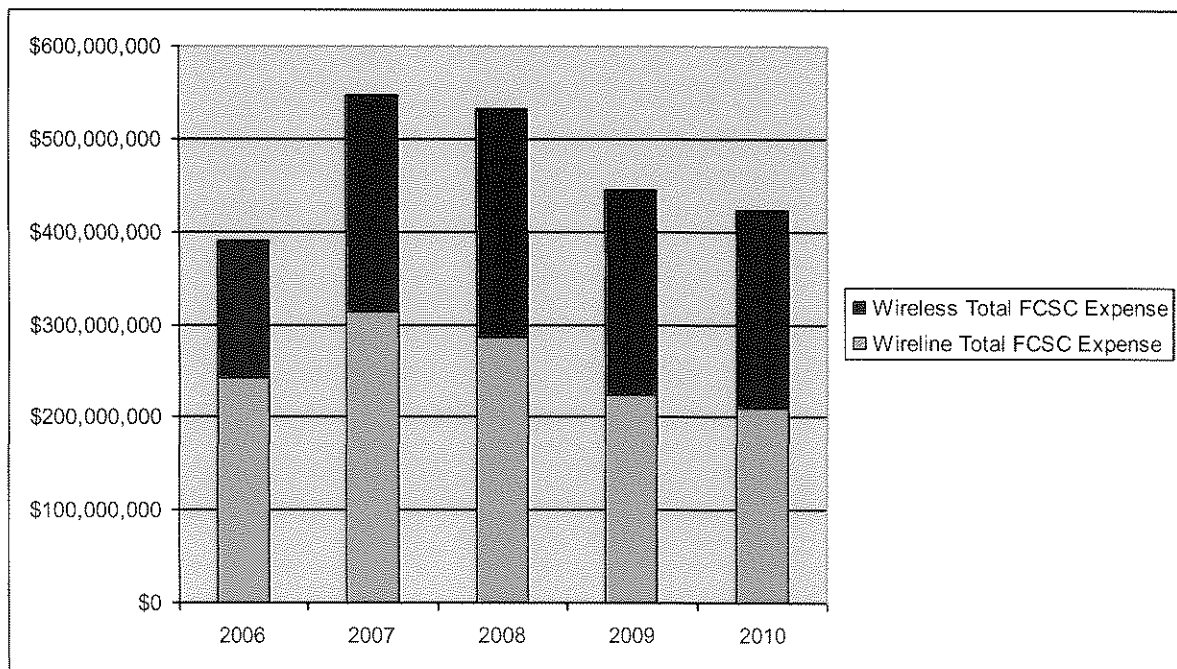
On its surface, the FCC's decision to delay, and perhaps let the parties arrive at their own resolution, may seem to have merit. After all, many believe that the FCC is at least in part responsible for creation of the rural rate structure which allows for the arbitrage that causes Traffic Pumping to be an effective scheme. But what is the cost of this delayed response to the communications industry?

In order to determine the Cost to Carriers, the first task was to accurately identify and isolate the traffic. The profile of Traffic Pumping calls is generally well known: long duration calls to rural areas which have a high terminating cost. To identify this traffic, TEOCO developed proprietary algorithms to monitor calls on a near real time basis using our SONAR technology.

On any given day, hundreds of these numbers are in use by the FCSCs. FCSCs are constantly adapting by changing States and setting up new numbers daily. Based on this knowledge and the public testimony that our experts have provided in many of the court cases, TEOCO modeled this data.

The total cost of Traffic Pumping to the industry is in excess of **\$2.3Billion (USD) over the past five years**. This is further broken down by market as a cost to the Wireline IXC industry of \$1.27Billion (USD) and a cost to the Wireless IXC Industry of \$1.06Billion (USD).

Figure 1 – Cost of Traffic Pumping to the Industry



	2006	2007	2008	2009	2010*	Grand Total
Wireless Total FSP Expense	\$147,127,150	\$234,380,289	\$247,260,650	\$220,573,868	\$214,295,354	\$1,063,637,311
Wireline Total FSP Expense	\$242,521,282	\$312,881,946	\$285,454,014	\$224,812,789	\$209,392,785	\$1,275,062,816
Market Total FSP Expense	\$389,648,432	\$547,262,235	\$532,714,664	\$445,386,657	\$423,688,139	\$2,338,700,127

* 4th quarter 2010 has been projected.

Conclusion

Traffic Pumping continues to proliferate due to a lack of action on the part of the FCC and some State regulatory bodies.

FCSC's argue that they are performing a customer service and that the CSPs should change their plans to include the characteristics and costs of "free" calling. CSPs build their plans on predictable cost models. The profile of a Traffic Pumping call clearly exceeds the 2.3 minute US national call average. Left unchecked, the CSP would be forced to raise its Subscriber rates or force Subscribers back to usage based plans to absorb these higher costs.

Imagine a CSP explaining a price increase to you by saying that you need to pay them higher fees so that a few people you don't know can spend the day making "free" pornographic chat calls or "free" conference calls. As absurd as that might sound, it is exactly what FCSC's want the CSPs to do.

Many of our clients ask if there is a way to block the call. Google has been successfully blocking calls to FCSCs based on their argument that their calls are a "data service" and not subject to the common carrier rules. However, for most CSPs, the answer is generally "no". If you are the originating carrier, you have an obligation to complete the call. If you are an IXC you may have a contractual option to not carry the call on a wholesale basis, but that is little comfort unless you have the ability to identify, isolate and intercept the traffic in real-time.

About TEOCO

Since 2006, TEOCO has leveraged its Usage Analytics Platform (SONAR) to help CSPs identify Traffic Pumping. TEOCO's products and tools process more external network spend for the US communications industry than any vendor or solution set in existence. TEOCO's products perform the expense accounting for approximately 65% of all US Wireline external network spend and more than 99% of the US Wireless external network spend. TEOCO's depth of

technical and industry expertise and highly scalable products place TEOCO in a unique position to assess the impact of the Traffic Pumping practice on the industry.

Authors:

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Derek Canfield, Executive Director Audit

Founded in 1995, TEOCO (The Employee Owned Company) is an OSS industry leading solution company focused on providing highly scalable Cost, Routing, Revenue and Network Management solutions to Communications Service Providers (CSPs) worldwide.

Ranked by Inc. Magazine's as one of the fastest growing privately held companies on four occasions, TEOCO is widely recognized for commitment to principled entrepreneurship, business ethics, and employee ownership – with a particular emphasis on our core values of alignment with employees, clients and community.

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